



Committee and date

Central Planning Committee

16 October 2014

## Development Management Report

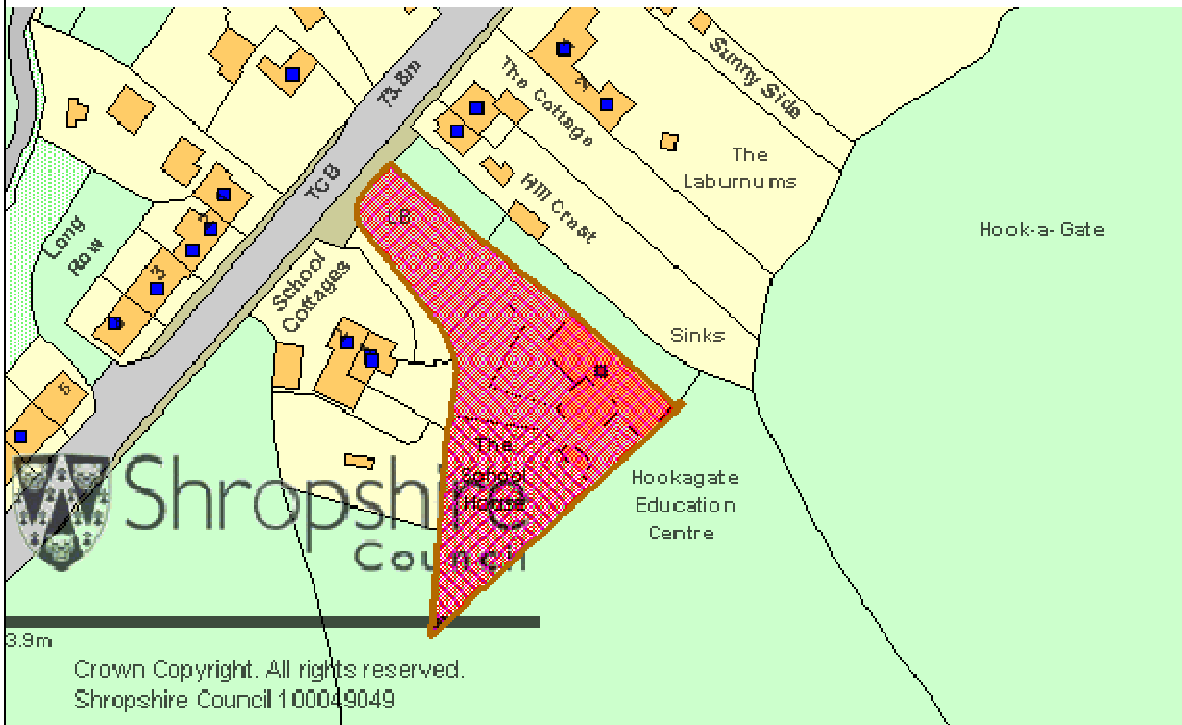
Responsible Officer: Tim Rogers

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### Summary of Application

<b>Application Number:</b> 14/03059/FUL	<b>Parish:</b>	Longden
<b>Proposal:</b> Erection of two storey extension and bell tower to facilitate use of school building as children's nursery; change of use of agricultural land to play area; formation of vehicular access and parking area (part retrospective)		
<b>Site Address:</b> The Old School Hookagate Shrewsbury Shropshire SY5 8BE		
<b>Applicant:</b> Mr & Mrs A Phillips		
<b>Case Officer:</b> Steve Drury	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 346517 - 309037



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**Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.**

## **REPORT**

### **1.0 THE PROPOSAL**

1.1 This application seeks permission for the following works at The Old School, Hook-a-gate, Nr Shrewsbury: -

- Erection of a two storey side and rear extension
- Various external alterations to existing building including the addition of a bell tower and removal of a chimney
- Alterations and improvements to site entrance
- Changes to site levels in order to accommodate an enlarged car park
- Change of use agricultural land to the rear of the site to accommodate an outdoor play area
- Extensive landscaping of site

1.2 The proposed works are required in order to accommodate a Children's Day Nursery at the site.

1.3 The applicant operates an existing childrens day nursery from their existing site at Hillside House, Lyth Hill, which presently has planning permission for 58 spaces. The business has now outgrown this site and the applicants are therefore looking to expand onto a second site at Hook-a-gate. The proposed development will provide a facility that has capacity for 74 children on site, however, the applicants have agreed to a condition restricting the nursery to 60 spaces.

### **2.0 SITE LOCATION/DESCRIPTION**

2.1 The site is located in the settlement of Hook-a-Gate, which is located approximately 5 miles south west of Shrewsbury. It is located in the centre of the village, to the south of the main road. The site contains the former village school and school house which have been vacant for a number of years.

2.2 The site is roughly triangular in shape, wide at the rear and tapering to its narrowest point at the front where it meets the highway. The site is also located on sloping land, rising uphill to the south with the lowest point at the front alongside the highway. The old school and attached school house are located to the rear of the site, set well back from the highway in an elevated position in relation to surrounding buildings. The school and house are of a traditional 'school building' design, containing a number of decorative features, however, a modern, unsympathetic red brick extension has been added to the front of the building. The buildings are unlisted but do contain considerable character.

2.3 No's 1 and 2 School Cottages are the neighbouring properties located to the west of the site and are at a lower level than the development site. No. 1 School Cottages is the property nearest the site and contains windows which face south and west. A number of properties are located to the north of the site, the nearest of which are Hillcrest and The Cottage. Across the highway at the front of the site is Reabrook Villa.

- 2.4 Vehicular access to the site is provided to the site from the main road via an existing single width entrance in the north corner of the site. A small car park is located at the front of the site at street level and access to the school building is provided by a raised ramp leading to a small tarmaced area in front of the building. An overgrown garden area was originally located at the rear of the site in the south corner, however, this has since been extensively cleared by the applicant and partly re-levelled in preparation to accommodate the proposed extension. Works have also been carried out at the front of the site to begin level alterations to accommodate additional car parking and improved vehicular movement through the site. A protected Yew Tree has been retained alongside the west side boundary.
- 2.5 Agricultural fields are located to the rear of the site which are accessed via a track extending along the north east site boundary. The application includes the change of use of a narrow strip of the field to be used as an outdoor play area and works have already commenced to provide this area, by the removal of the existing boundary and insertion of a new post and wire fence.
- 2.6 The front of the site contains a number of items of parish council paraphernalia including a parish notice board, wooden seat/bench, post box and two telegraph poles. A BT telephone box has already been removed from site.

### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 In accordance with Part 8 of the Shropshire Council's Scheme of Delegation, the application has been requested to be referred to Central Planning Committee by the local member for the Longden ward, in response to an objection from Longden Parish Council.

### **4.0 COMMUNITY REPRESENTATIONS**

#### 4.1 Consultee Comments

##### 4.1.1 Longdon Parish Council

The Parish Council objects on a number of grounds. The amount of traffic generated by the development would create excessive pollution and a road safety issue, affecting both pedestrians and motorists.

There will be a significant loss of privacy to neighbouring properties.

Finally, there will be nowhere for the school children to catch the bus to school. The school bus, at present, stops outside the proposed development site and there will be a significant obstruction with children being picked up and dropped off at the nursery.

In conclusion, the site does not have the capacity for the projected number of children that will be in attendance at the new nursery.

##### 4.1.2 SC Public Protection

The hours of construction are conditioned due to the close proximity to existing residential dwellings. It is also recommended that no burning shall take place on site during both construction and clearance of the site. This is to protect the amenity of the area and the health and wellbeing of nearby residents.

4.1.3 SC Drainage

The surface water proposals in the Design and Access Statement are acceptable.

The car parking area should shape towards the twin 900 mm attenuation drainage system. Proposed levels of the car parking area should be provided.

The size of the 100mm and 150mm diameter pipes from the French Drain to S7 should be checked.

4.1.4 SC Trees

A significant Yew tree protected by a TPO, is present on this site. An Arboricultural Impact Assessment has been submitted with the application to demonstrate the impact of the development on existing trees, hedges and shrubs and to justify and mitigate any losses that may occur.

The AIA has been prepared in accordance with BS 5837 (2012) and includes an assessment and categorisation of the tree based on their current and potential public amenity value. This categorisation forms the basis for how much weight should be put on the loss of a particular tree and helps to inform the site layout and design process. I have reviewed the category allocated to the tree and would agree that it is appropriate.

It is proposed to form an access roadway around the existing tree. This will utilise a no dig construction method and will also involve a program of soil improvement within the trees Root Area. A comprehensive arboricultural method statement ref: F&AS/AIA/0100/2014 detailing all works within the RPA of the tree has been submitted with this application. I have examined this AMS and am satisfied that, providing it is followed in detail, the risk of the work being significantly detrimental to the health or amenity provided by the tree is very low.

No objection is made to the application subject to the provisions of the AIA & AMS being followed in full.

4.1.5 SC Ecology

Raise no objection subject to the addition of conditions and informatives to any planning permission, concerning Bats, nesting birds and Badgers.

**Bats:**

Surveys revealed a roost of Common Pipistrelle bat emerging from behind the barge boards on the eastern gable of the hall building and from under a ridge tile. It was concluded that this roost is used periodically by a small number of Pipistrelle. An EPS licence from Natural England will be required prior to the commencement of works on site. Pearce Environment Ltd has recommended bat mitigation in the form of; an ecological clerk of work overseeing bat related work on site, contractors tool box talk, erection of a bat box on the exterior of the building before work commences, the inclusion of a Schwegler 1FR bat box in the proposed extension, retention of a ridge gap, and post development monitoring.

**Nesting Birds:**

The site has the potential to support nesting birds. Bird nesting opportunities should

be incorporated into the site design as detailed in the ecological report.

**Badgers:**

There is an inactive badger set within close proximity of the proposed development. Pearce Environment has provided mitigation measures for badgers in the form of a 10m fenced standoff from the sett.

**4.1.6 SC Highways:**

The highway authority raises no objection to the granting of consent.

A number of discussions have previously taken place with the applicant in order to set out the local highway authority requirements for the consideration of the proposed extension of the existing school building in order to establish a nursery facility. Clearly due to the nature of daytime child care facilities they attract a stream of vehicle movements are various times throughout the day between the proposed opening hours of 07:50 to 18:00, however this has the advantage that movements to and from the site will be spread out over the course of the day.

Given the specific nature of the proposed business and that the applicant operates an existing successful rural nursery at Lyth Hill, we asked the applicant to survey the use of their existing site to demonstrate the number of vehicle movements to and from and the number of vehicles parked at the nursery during the working day. Consequently in response to this within the design and access statement the applicant has provided results of a detailed survey carried out between Monday 14th to Thursday 17th April. The results of this survey have been used by the applicant to determine the level of parking required on the site with the proposed parking layout shown on drawing number HG-DL-101 Rev B.

The proposed site layout indicates that eight staff and 10 customer permanent parking spaces would be provided, plus two additional drop off spaces to the front of the building; given that the survey showed that a maximum of 16 vehicles were noted on the Lyth Hill site, we are of the opinion that the level of parking proposed is sufficient for the intended use and capacity of the development. Also given the topography of the site (the building is elevated some meters above the level of the road) and the linear nature of the car park, it is unlikely that parents will want to walk far to the building and should the parking spaces be full parents will be able to drive close to the building and stop in the car park. Both of these factors lead us to believe that parking on the adjacent highway in relation to the proposed development will be unlikely. Due to the need to establish the proposed parking arrangements prior to the occupation of the development to avoid parking on the adjacent highway, we have requested a condition restricting the use of the development until this has been completed.

Moving on to the point of access at Longden Road, this has been the cause for much discussion with the applicant and other interested parties. Whilst the existing site benefits from an existing access to the old car park/playground, in its current form we are of the opinion that it is not suitable for the intended level of usage on the site due to its narrow width and sub-standard visibility in the Shrewsbury direction. The applicant has therefore worked up a solution to provide a widened access which deals with the above issues which we view as being suitable for the

proposed nursery use. However, the proposed access works will displace a number of items of street furniture which are sited on the applicants land and are off the public highway. This issue has been subject to much debate and BT have already removed a public phone box sited here, but having checked our highway authority records we have confirmed this piece of land is outside of the highway so we can only assume that at some point in the past the school wall has been constructed back from the land ownership boundary to provide space for these items. We have advised the applicant that should the application be approved they will need to negotiate the resiting of these items with the parish and respective organisations prior to commencing any work on site. It would appear from the supplied drawing that there should be sufficient space to retain the items in the area of land immediately to the south-west of the access. However as this land is outside the current highway boundary other than dealing with the licencing of the access changes, the local highway authority has no direct powers in this matter at this time.

#### 4.2 Public Comments

4.2.1 At the time of writing, the application has received 27 comments, of which 10 are objections and 17 are in support. The comments are available in full on the planning file but the key points have been summarised as follows: -

#### 4.2.2 Objections:

##### Parking Problems:

- Not enough room at the proposed site to accommodate required parking
- Will lead to parking on the road

##### Highways Issues:

- Additional traffic will cause problems on the road
- Conflict with farm traffic and heavily loaded agricultural vehicles using the road
- Increased likelihood of accidents
- Visibility at entrance to the site
- Site frontage acts as informal bus stop
- Additional vehicle emissions from increased traffic
- The increase in vehicular movements will be inconvenient and dangerous for both pedestrians and other motorists in the vicinity.
- Neighbours may find access to their own properties blocked as a result of the congestion.

##### Impact upon Neighbours:

- Proposed development will overlook neighbouring property,
- Neighbours will suffer a loss of privacy
- Proposed extension will dominate views from neighbours property
- Very little landscaping proposed to screen development
- Use of opaque glass will not be sufficient to protect the neighbours privacy
- Noise and disturbance from use of site, including car doors banging, parents chatting, children playing, all within in close proximity to boundary.
- Light pollution from floodlit car park
- The privacy of certain neighbours will be placed in further jeopardy by the proposed increase in windows of the Old School House.

- Neighbours will be severely affected by the volume of cars using the site
- Is likely to create ill feeling amongst local residents

Ecology Issues:

- Clearance of the site will result in destruction of mini ecosystem and wildlife habitat

Other matters:

- Loss of post box, telephone kiosk, bin, memorial bench, street light and notice board – facilities making up the heart of the village.
- Site frontage is local meeting point
- Size of development is too large for small rural village
- Loss of 'Old School' name – matter close to the heart of village identity is to disappear in the name of commercial gain
- The development will ruin the peaceful nature of the village.
- The owner of the development site is claiming land, adjacent to the highway, which belongs to the council.
- The local drainage system will be unable to cope with the increased usage that would result from the development.
- The development proposes an unacceptable use of agricultural land (as a playground) and an unacceptable infringement on the open countryside.

4.2.3 Support:

- A nursery on the proposed development site would thrive as a result of being in the capable hands of the experienced Janet and Alfie Phillips and because of the fantastic local environment.
- The Phillips's existing nursery benefits enormously from its rural location and presumably the proposed nursery would also.
- The Phillips', who are passionate about what they do, run a local business that is professionally run, provides an excellent service, employs local people and supports and utilises local services. For these reasons the Phillips' should have the support of the local community, which will only benefit further as a result of the approval of the proposed development.
- The Phillips' are excellent employers. Their existing nursery has a happy and content workforce that fully supports the expansion of the Phillips's business and welcomes the opportunities that would arise as a result.
- The presence of a nursery would make Hook-a-Gate a more desirable place for parents of young children to live.
- The nursery operates between 8am and 6pm. Unlike at a school, children will arrive and leave at various times. Also many children will share lifts. It is extremely unlikely that 60 cars picking up 60 children will all arrive at the same time. Therefore the traffic is unlikely to ever be excessive.
- The operating hours are not unreasonable times for there to be an increase in noise.
- The proposal supports the Government policy entitled 'Improving the quality and range of education and childcare from birth to 5 years'.
- The proposed development is far more favourable than housing being built on the site and resurrects a fantastic building that is in danger of falling into disrepair.
- Any improvement on the overgrown grounds of the site will be fully

welcomed.

## **5.0 THE MAIN ISSUES**

Principle of Development  
Siting, Scale and Design and Visual Impact  
Highways Issues  
Impact Upon Residential Amenity  
Drainage Issues and Flood Risk  
Trees Issues  
Ecology Issues  
Other matters

## **6.0 OFFICER APPRAISAL**

6.1 Principle of Development

6.1.1 The proposal concerns alterations and extensions in connection with the provision of a Childrens Day Nursery at the site. The proposed use as a nursery carries the same use class (D2) as a school or educational use and therefore does not involve a change of use. The principle of extensions and alterations to an existing commercial premises is considered acceptable, subject to compliance with the requirements of relevant planning policies within the Shropshire Core Strategy, including CS6, CS17 and CS18.

6.1.2 The proposal will also involve the change of use of a small strip of land currently located within the field to the rear of the site. The land will therefore change from an agricultural use and will be incorporated within the nursery site to be used as an outdoor play area. Whilst proposals that involve encroachment onto adjacent agricultural land are not normally supported, in this instance, the parcel of land is relatively small (measuring a maximum of 6 metres deep), is discreetly located behind the building and will not have any significant impact upon the character and appearance of the area. It is therefore considered that in this instance, the proposed change of use can be supported.

6.1.3 The proposal will see a vacant building of local interest returned to use and will help an existing local business to expand and deliver a service to the local community. Policy CS8 seeks to provide access to additional facilities, services and infrastructure provision throughout Shropshire on appropriate sites and Policy CS13 advises that Shropshire Council will plan positively to develop and diversify the Shropshire economy, supporting enterprise, sustainable economic growth and prosperous communities. The National Planning Policy Framework (NPPF) also requires planning authorities to support the sustainable growth and expansion of business and enterprise in rural areas, both through the conversion of existing buildings and well designed new buildings (Para. 28). The NPPF contains a presumption in favour of sustainable development. It advises that there are three dimensions to sustainable development – Economic, Social and Environmental roles.

6.1.4 The existing business at Hillside House, Lyth Hill contains day nursery provision for 58 children and has an Ofsted rating of outstanding for 3 consecutive inspections in all areas. The business provides care and education for children ranging from 3 months to 4 years of age. The business has reached full capacity but has a waiting



list of children of all ages and is looking to expand.

- 6.1.5 The proposed development would provide a new day nursery with a capacity of 60 children. In addition to the provision of a local service, the proposal will also provide economic and community benefits to the local area. If permitted, the new nursery would provide 8 new full time and 2 part time (equating to 9 FTE) jobs and opportunities for staff development will be available in the form of vocational courses, training, school placements and apprenticeships. The nursery could also act as a community meeting centre and would provide an opportunity for local children to meet and interact giving a foundation for primary school. The development would also provide jobs for local tradesman during the construction period.
- 6.2 Siting, Scale and Design and Visual Impact
- 6.2.1 The proposed development will include the erection of a two storey extension to the side of the existing school building. The extension will be erected on an L-shaped footprint measuring a maximum of 17.5m wide and 11.8m deep and will include a section projecting out to the front containing a large two storey gable. The front elevation will be constructed using facing brick to match the existing school, however, the side and rear will be rendered along with the existing rear elevation and the modern, existing single-storey addition to the front of the school. The roof will be tiled using plain clay tiles and will contain a single dormer in the front elevation together with five dormers in the rear. The front elevation will contain decorative features such as stone window and door surrounds and decorative windows to replicate those found in the existing school building. Doors and windows in the side and rear elevations are of a more standard design.
- 6.2.2 At the request of officers, the applicants have carried out amendments to the plans to reduce the height of the proposed extension to match the existing building. The extension has now been designed to reflect the scale and proportions of the existing school building and as such, the height at the ridge line will align with the ridge in the existing school house. This will help to maintain a constant building height when viewed from the front of the site. The overall height of the extension will rise to 7.2 metres.
- 6.2.3 Officers are mindful that the existing school building occupies a raised location within the site given the rising land contours to the rear of the site. Any extension will therefore be clearly visible from the highway frontage, however, weight should also be given to the fact that the building is set well back within the site, thus limiting the likely impact the proposal will have upon the character of the area. Officers are also mindful that the existing building, whilst not listed, is a historic building with an interesting history and does contain considerable character. Unfortunately, it has been the subject of modern alterations and an unsympathetic single storey extension has been added to the front of the building which has to a certain extent harmed its character.
- 6.2.4 Officers do note that attempts have been made to provide a sympathetic design which compliments the character and appearance of the building and have also indicated further alterations to the existing single storey to provide a more sympathetic form of development. It is proposed to add a pitched roof and a bell

tower as an acknowledgement of the buildings former use. It is also intended to add stone surrounds and decorative windows to match the existing building.

- 6.2.5 Whilst the proposed extension would be a substantial addition to the existing property, it has been sympathetically designed and amended to match the height of the existing building. The proposal is therefore considered appropriate in scale and design and can be accommodated by the plot size without appearing cramped. It is also noted that the development includes provisions to enhance unsympathetic parts of the existing building. Officers therefore consider the proposal to be appropriate in scale and design, taking into account local context and character and on balance, this aspect of the proposal is considered to comply with Policies CS6 and CS17 of the Core Strategy.
- 6.2.6 A consideration of the impact upon neighbouring residents is carried out in Section 6.4.
- 6.3 Highways Issues
- 6.3.1 Given that school building carries the same use classification as a children's day nursery, the applicants could operate their business from the existing building without restrictions from the planning or highways authority. However, the applicants wish to extend the existing building in order to increase the capacity of any day nursery provided on site. The proposed extension will provide capacity for up to 74 children and babies, however, the applicants have indicated they would be prepared to accept a condition restricting capacity to 60 children. The application therefore requires a consideration of the suitability of the site to accommodate a development of the size proposed from a highway safety perspective.
- 6.3.2 In order to assess the likely impact upon highway safety, officers have requested that the applicant provides details of the typical vehicle movements and parking requirements associated with the business on a typical working day. The applicants have carried out a traffic survey at their existing premises between Monday 14th to Thursday 17th April 2014, the results of which have informed the design of the proposed parking layout shown on drawing number HG-DL-101 Rev B.
- 6.3.3 The traffic survey has indicated that the existing nursery, which has a capacity of 58 children, generates vehicle movements throughout the day from 07:45 to 18:00 hours, which typically can be separated into 5 peak times consisting of 07:45-09:00, 09:30-09:45, 12:30-13:00, 15:30-16:20 and 17:20-18:00. These patterns are not unexpected and correspond with the start and finish of the working day together with start and finish times of local schools. It is anticipated that similar patterns could be expected at the proposed site, spread across proposed opening hours between 07:30 to 18:30 hours. The survey also identifies that the average time for 'drop-offs' is 3 minutes with 'pick-ups' taking slightly longer. The assessment of the current site is that the current provisions of 8 parking spaces for staff and 8 public spaces is sufficient to accommodate current demand.
- 6.3.4 Parking Provision:  
The proposed site layout indicates that eight staff and 10 customer permanent parking spaces would be provided, plus two additional drop off spaces to the front of the building. Given that the survey showed a maximum of 16 vehicles noted on

the Lyth Hill site at any one time, officers are of the opinion that the level of parking proposed is sufficient for the intended use and capacity of the development.

- 6.3.5 Given that officers consider the on-site provisions to be sufficient, it is not considered likely that overspill parking on the adjacent highway would be likely. Furthermore, it is considered that the topography of the site and the linear nature of the car park will make it preferable for parents to drive into the site to drop off their children in the 'drop-off' spaces immediately in front of the building as opposed to parking on the highway. However, should planning permission be granted, a condition will be attached requiring the parking arrangements to be provided prior to the occupation of the development to avoid parking on the adjacent highway.
- 6.3.6 Access:  
The vehicular entrance to the site has been the subject of much discussion as part of this application. Whilst the site benefits from an existing access to the old car park/playground, in its current form Highways Officers are of the opinion that it is not suitable for the intended level of usage on the site due to its narrow width and sub-standard visibility in the Shrewsbury direction.
- 6.3.7 The proposed development therefore includes provisions to widen the existing access to 6 metres which will allow sufficient space for vehicles to enter and egress the site simultaneously and to enhance visibility for vehicles leaving the site. Concerns have been raised by local residents and the Parish Council that the proposed widening of the access will require the removal of a number of items of street furniture at the front of the site, including a parish notice board, memorial bench, waste bin, post box, street light and telegraph pole. A BT phone box has already been removed from the site frontage to accommodate the widened access. This strip of land and the items located on it are currently the subject of a dispute over their ownership, however, whilst this is acknowledged, it is not a matter in which the planning department can become involved and is not relevant to the consideration of this application.
- 6.3.8 Notwithstanding the above concerns, officers have agreed that a widened 6 metres wide access can be provided without the need to remove the items of street furniture concerned from their current location at the front of the site. The applicant has confirmed in writing that there is no intention to remove these items from their current position. Highways officers have confirmed that sufficient space is available alongside the access to the south-west should any of the items need to be re-sited further across, however, at present there is no suggestion that this will need to take place.
- 6.3.9 Having considered the proposed access alterations, officers are satisfied that the widened, improved access would be sufficient to accommodate traffic movements likely to be associated with the proposed nursery use at the site. Officers are therefore satisfied that the widened access can be provided without requiring the loss, removal or relocation of the street furniture at the front of the site. Also following discussions with the applicant, the local highway authority and the parish council, it has now been agreed that subject to the surfacing being improved around the items of street furniture, the local highway authority are happy to adopt this area as highway maintainable at public expense.

### 6.3.10 Surrounding Road Network:

It is noted that concerns have been raised by the public regarding the suitability of the local road network to accommodate the associated increase in traffic levels which may be generated by the development. The site is served by Longden Road which is a classified C road linking Shrewsbury with settlements of Annscroft, Longden and beyond and is considered to be a sufficient standard of road to accommodate any additional traffic movements resulting from the development. However by nature child day-care facilities tend to attract by-pass trips by parents travelling on their way to work, so the development is unlikely to generate a material increase to the number of vehicle movements through the village.

### 6.4 Impact Upon Residential Amenity

6.4.1 It is noted that a number of concerns have been raised by local residents in relation to the proposed development. These concerns will be considered as follows: -

6.4.2 As the nearest residential property to the proposed development, the owners of No. 1 School Cottages have expressed a number of concerns regarding the likely impact upon their own property and their future quality of life. The proposed extension will be erected on land to the rear of that property which is on higher ground and as such, will be clearly visible from the rear of their property. Whilst extensive site clearance has taken place, a protected Yew tree will be retained on site which will help to partially screen the extension and soften any impact when viewed from the rear of their property. The back to back distance between the property and the extension will be 28 metres which is fairly generous by modern standards, and whilst the proposal will be located on higher ground, it is noted that the first floor will be provided within the roof structure and the height of the extension has been reduced, thus helping to reduce the scale and mass of the building. The amended ridge height of 7.2 metres will replicate the existing building and is not considered to be excessive. Having regard to the above considerations, it is not considered that the proposal would have an overbearing impact upon the neighbour, nor would it result in an unacceptable loss of light at that property.

6.4.3 The applicant has agreed that the first floor windows in the front elevation of the proposed extension will be obscure glazed to prevent any additional overlooking of the neighbouring property at 1 School Cottages.

6.4.4 Whilst it is acknowledged that extensive tree and vegetation clearance has taken place within the site, such clearance works would not have required planning permission and are therefore outside the control of the planning system. The concerns raised by the neighbour in relation to overlooking and a loss of privacy are noted, however, it is considered that the existing vegetation within the neighbours boundary, the existing boundary fence and the protected Yew tree will be sufficient to maintain the neighbours privacy and to ensure that they are not overlooked at an unacceptable level.

6.4.5 Notwithstanding the above, should the application be approved, a condition would be added to any planning permission requiring confirmation of boundary treatments to be provided around all parts of the site. As part of this process, officers will explore with the applicants, the possibility of providing additional screening along

the west side boundary.

- 6.4.6 Officers also note the concerns raised in relation to the level of activity and the associated noise and disturbance which can be expected as a result of the proposed use of the site as a nursery. Clearly a significant number of vehicle movements will take place within the site, involving vehicles driving up to the building entrance to drop off children and vehicles parking in the allocated spaces along both sides of the car park. It is likely that such activities will generate noise including car engines revving and car doors slamming together with noise from parents conversations, children playing together with light emitted from headlight beams as cars manoeuvre around the site during winter months. Officers acknowledge that such activities are likely to have an impact upon the neighbour at 1 School Cottages, however, it is considered that any impact will be mitigated to a certain extent by the position of the 1.8 metre high solid, timber panelled fence with intermittent tree screening along the west side boundary. In addition, the opening hours of the nursery will be limited to weekdays only, more specifically between the hours of 07:30 and 18:30. It is therefore considered that any activities and associated noise or disturbance occurring at the site would not occur at unsociable hours or during weekends or bank holidays. Officers are also mindful that an educational use has occurred on the site for a number of years therefore whilst the nature of the use will be intensified, noise and activity will have occurred at the site previously, without restrictions on hours.
- 6.4.7 Should the application be recommended for approval, it is intended to add a condition preventing any external floodlighting of the car park without first agreeing details with the planning department.
- 6.5 Drainage Issues and Flood Risk
- 6.5.1 Surface Water:  
The site currently has a steep gradient which slopes from its highest point in the south-east to the north-west at the front of the site. The site presently contains two main areas of hardstanding comprising a lower car park and upper turning area immediately in front of the building. It is advised that at present, surface water drainage runs off the site and drains into the highway along Longden Road. The collected surface water around the building appears to discharge to the existing foul sewer. The two areas identified above are impermeable tarmac which together with the buildings, have been calculated to produce a typical surface water run-off rate of 25.57 litres per second discharge.
- 6.5.2 The applicant has employed a drainage consultant to prepare a drainage scheme for the proposed development. As the site is classed as Brownfield, Policy CS18 of the Core Strategy requires that any new scheme achieves a minimum 50% betterment for surface water drainage. Porosity tests have been undertaken on-site which have indicated that the site has insufficient porosity for the use of soakaways. All surface water drainage and discharge will therefore be collected via an attenuation system which will discharge at a restricted rate to the existing culvert, located within the highway footway. To prevent additional runoff entering the highway carriageway, an ACO drainage channel will be provided across the entrance to the site. Detailed drawings indicating the proposed system have been submitted as part of the application.

- 6.5.3 The Council's Flood and Water Management Team have inspected the proposed drainage scheme and consider it to be acceptable in principle. The proposed scheme will achieve a reduction of surface water run-off to 12 litres per second, thus achieving a 50% betterment and to account for a 1 in 100 year rainfall event (+ 30% climate change). It is therefore considered that the proposal will not have any adverse effects downstream on the receiving culvert or outfall thereafter. The proposal should also ensure that no adverse surface water flooding issues are experienced by adjacent land owners including neighbouring residential properties.
- 6.5.4 Foul Drainage:  
Foul drainage from the proposed development will be collected via existing and proposed new piped system and will discharge to the existing foul water sewer outlet located within the site boundary.
- 6.6 Trees Issues
- 6.6.1 The proposal has been accompanied by an arboricultural impact assessment (AIA) which has been assessed by the Council's Trees Officer. The site has been the subject of extensive tree and vegetation clearance in the south west corner which was carried out prior to making the application but would not have required permission given that none of the trees were covered by protection orders.
- 6.6.2 One protected tree, a Yew, is located to the front of the building and is considered to be of high amenity value but also provides significant screening benefits in terms of the relationship of the proposed extension with the neighbouring property at 1 School Gardens. As the proposed site layout plan indicates that an access roadway will be provided around the tree, it is essential that provisions are made to ensure the tree is not harmed. The AIA proposes a no dig construction method, together with a program of soil improvement within the tree root zone. A comprehensive arboricultural method statement ref: F&AS/AIA/0100/2014 detailing all works within the RPA of the tree has been submitted with this application and the Trees Officer is satisfied that, providing it is followed in detail, the risk of the work being significantly detrimental to the health or amenity provided by the tree is very low.
- 6.7 Ecology Issues  
The NPPF and Policy CS17 of the Shropshire Core Strategy require consideration to be given to the potential impact of a development on the natural environment. The Council's Planning Ecologist has assessed the application and is satisfied that the proposal can be provided without harm to any statutorily protected species or habitats, however, they do request that conditions and informatives relating to Bats, Nesting Birds and Badgers are attached to any planning permission granted.
- 6.8 Other matters
- 6.8.1 Land Ownership Dispute:  
As mentioned in section 6.3.7 of this report, the land at the front of the site is currently the subject of a dispute over ownership. The applicant can demonstrate evidence of title to the strip which was included when the building was purchased from the Council earlier this year. The Parish Council and local residents dispute that the strip should have been included within the site given that the land and items located upon it have been maintained by the parish council for at least the

last 50 years. Members are reminded that land ownership is not relevant to the determination of a planning application and the planning department cannot become involved in disputes to establish ownership of land and/or the right to use land. Such disputes are civil matters to be resolved by the parties involved through the relevant channels and should not have a bearing upon the determination of this application.

## **7.0 CONCLUSION**

- 7.1 Local and national planning policy both advocate support for sustainable growth and expansion of all types of business and enterprise in rural areas, in locations that are appropriate, accessible and have no significant adverse impact upon environmental assets. Officers are satisfied that the proposed development will contain both economic and social benefits to the community.
- 7.2 The proposed extension has been reduced in height to overcome officers concerns. Consequently, it is considered that the proposed extension can be accommodated by the plot and has been designed to respect the scale, character and appearance of the existing school building. The building is set well back within the plot, behind a protected Yew tree and having regard to the design, it is not considered that the proposal would have a detrimental impact upon the character of the locality.
- 7.3 Officers consider that the proposed car park layout and parking provision will be sufficient to accommodate the volume of traffic and parking requirements generated by a nursery with a capacity of 60 spaces. Widening of the vehicular access can be carried out to allow the simultaneous entrance and egress of vehicles onto the site without the requirement to remove or relocate the items of street furniture currently located at the front of the site. Officers are also satisfied that proposed layout will allow the adequate manoeuvrability of vehicles around the site. Given the above, the proposal should not result in on-street parking along the adjacent highway and will not be harmful to highway safety. Furthermore, the applicant has offered to refurbish or replace the parish noticeboard and wooden bench at the front of the site and is willing for the Council to adopt the area at the front of the site as public highway.
- 7.4 The proposal will not have an overbearing impact upon, nor would it unacceptably affect light levels at the neighbouring property at 1 School Gardens. Any impact upon the neighbours privacy would be mitigated by the provision of obscure glazing in the first floor of the extension, together with screening afforded by the protected Yew tree and existing trees and vegetation within the neighbours boundary. The existing boundary fence along the west boundary will act as a barrier between vehicle movements, noise and activity occurring on site from the neighbour, however, it is acknowledged that an impact upon the occupants of 1 School Gardens is inevitable. Having regard to the proposed opening hours at the nursery (07:30 to 18:30 Monday to Friday only), however, it is not considered that on-site activity would take place at unsociable or unreasonable hours, and this can be controlled by condition. As a result, it is not considered that the proposal would result in a significant adverse impact upon the quality of life of the occupants of the adjacent neighbouring property.

7.5 The proposal would have no adverse environmental or ecological implications and can be carried out with causing harm to the protected Yew tree on site.

7.6 Having regard to the above considerations, officers consider that the benefits of the proposal would outweigh any harm and consider the proposal to constitute a sustainable form of development in accordance with the NPPF and Policies CS6, CS8, CS13, CS17 and CS18 of the Core Strategy and is recommended for approval.

## **8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

### **8.1 Risk Management**

There are two principal risks associated with this recommendation as follows:

☐ As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.

☐ The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than three months after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

### **8.2 Human Rights**

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

### **8.3 Equalities**

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.



## 9.0 FINANCIAL IMPLICATIONS

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

## 10. Background

### Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework (NPPF)

Core Strategy and Saved Policies:  
CS6: Sustainable Design and Development Principles  
CS8: Facilities, Services and Infrastructure Provision  
CS13: Economic Development, Enterprise and Employment  
CS17: Environmental Networks  
CS18: Sustainable Water Management

### RELEVANT PLANNING HISTORY:

PREAPP/12/00409 Proposed change of use from former school building and school house/grounds to residential development to provide a maximum of four dwellings  
PREAMD 19th October 2012

PREAPP/14/00056 Proposed alterations and extension for the use as a childrens nursery school including new vehicular access and parking area  
PREAMD 29th September 2014

14/03059/FUL Erection of two storey extension and bell tower to facilitate use of school building as children's nursery; change of use of agricultural land to play area; formation of vehicular access and parking area (part retrospective) PDE

## 11. Additional Information

View details online:

<http://planningpa.shropshire.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

See Planning File

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Roger Evans

Appendices

APPENDIX 1 – Conditions

APPENDIX 2 – EPS Matix

## **APPENDIX 1**

### **Conditions**

#### **STANDARD CONDITION(S)**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the approved plans and drawings.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

#### **CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

3. Prior to the commencement of any above ground works associated with the extension hereby approved, details of the external materials to be used in the development shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out strictly in accordance with the agreed details.

Reason: To ensure a satisfactory appearance to the development and in the interests of the visual amenities of the area.

4. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- the parking of vehicles of site operatives and visitors
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- wheel washing facilities
- measures to control the emission of dust and dirt during construction
- a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

**CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT**

5. The development hereby permitted shall not be brought into use until the areas shown on the approved plans for parking, loading, unloading and turning of vehicles has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use.

Reason: To ensure sufficient provisions for parking, turning and loading on site and to avoid on-street parking in the interests of highway safety.

6. Prior to the nursery hereby approved first being brought into use, boundary treatments around the perimeter of the site shall have been provided in accordance with details first to be submitted to and agreed in writing with the local planning authority. The boundary treatments shall be installed and thereafter permanently maintained in accordance with the agreed details.

Reason: In order maintain the amenities of neighbouring residents.

7. Prior to their installation, details of any floodlighting or external lighting to be provided on site shall be submitted to and agreed in writing with the Local Planning Authority. The lighting shall be installed strictly in accordance with the approved details and thereafter permanently retained as such and no additional external lights shall be erected without the prior written consent of the Local Planning Authority.

Reason: In the interests of the amenities of nearby residents.

**CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

8. The premises shall not be open to the public outside of the hours 07:30 to 18:30 Monday to Friday. The premises shall not open to to the public at any time on Saturdays, Sundays or Public Holidays.

Reason: To protect the amenities of the occupiers of nearby residential properties.

9. The premises shall only operate as a Childrens Day Nursery within the D1 Use Classification and not for any other use stipulated within that class.

Reason: To protect the amenities of the occupiers of nearby residential properties and the character of the area.

10. No construction and/or demolition work shall commence outside of the following hours: Monday to Friday 07:30 - 18:00, Saturday 08:00 - 13:00. No works shall take place on Sundays and bank holidays.

Reason: to protect the health and wellbeing of residents in the area.

11. Prior to construction and/or demolition activities occurring on site a dust management statement detailing how the developer will reduce dust from spreading off the site shall be submitted to the local planning authority for approval in writing. Any methods contained within any approved statement shall be implemented on site.

Reason: to protect the amenity of the area and the health and wellbeing of local residents.

12. The premises shall provide nursery accommodation for a maximum of 60 children.

Reason: In order to avoid an over-intensive use of the site in the interests of the amenities of neighbouring residents and the locality.

13. No burning shall take place on site during construction and/or clearance of the site.

Reason: To protect the amenity of the area and the health and wellbeing of existing residents in the locality.

14. The items of street furniture located at the front of the site shall not be removed from their present location within the land edged blue on the existing site plan. Any re-positioning of the items within that land shall only be carried out in full agreement with the local highways authority.

Reason: For the avoidance of doubt and to safeguard items used by the community.

15. All first floor windows to be inserted in the north west facing (front) elevation of the extension hereby approved shall be fitted with obscure glazing and shall thereafter permanently be retained as such.

Reason: In order to safeguard the privacy of neighbouring residents.

16. Work shall be carried out strictly in accordance with the Reasonable Avoidance Measures Method Statement by Pearce Environment Ltd (September 2014) attached as an appendix to this planning permission.

Reason: To ensure the protection of badgers and bats, a European Protected Species

17. A total of 2 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species and 4 Schwegler artificial nests, as recommended in Pearce Environment ecological report, suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site prior to first use of the building hereby permitted as shown on a site plan. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

Reason: To ensure the provision of nesting opportunities for wild birds and roosting opportunities for bats which are European Protected Species.

## APPENDIX 2

### EUROPEAN PROTECTED SPECIES – Consideration of the three tests

Application name and reference number:

14/03059/FUL

The Old School  
Hookagate  
Shrewsbury  
Shropshire  
SY5 8BE

Erection of two storey extension and bell tower to facilitate use of school building as children's nursery; change of use of agricultural land to play area; formation of vehicular access and parking area

Date of consideration of three tests:

3<sup>rd</sup> September 2014

Consideration of three tests carried out by:

Nicola Stone

Assistant Biodiversity Officer

01743-252556

- 1 Is the development 'in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment'?**

The proposal will see a vacant building of local interest returned to use and will help an existing local business to expand and deliver a service to the local community.

The proposed development would provide a new day nursery with a capacity of 60 children. In addition to the provision of a local service, the proposal will also provide economic and community benefits to the local area. If permitted, the new nursery would provide 8 new full time and 2 part time (equating to 9 FTE) jobs and opportunities for staff development will be available in the form of vocational courses,

training, school placements and apprenticeships. The nursery could also act as a community meeting centre and would provide an opportunity for local children to meet and interact giving a foundation for primary school. The development would also provide jobs for local tradesman during the construction period.

## 2 Is there 'no satisfactory alternative'?

The building is currently vacant and unfit for modern purposes. Substantial refurbishment is required to bring it up to a standard suitable for an educational use. The building is also limited in terms of the floor space available, therefore the proposed extension is considered necessary to achieve sufficient space for the use proposed.

The applicants have explored alternative sites for their business and consider the application site the most appropriate in terms of size and location.

## 3 Is the proposed activity 'not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range'?

Surveys revealed a roost of Common Pipistrelle bat emerging from behind the barge boards on the eastern gable of the hall building and from under a ridge tile. Pearce Environment Ltd (2014) concludes that this roost is used periodically by a small number of Pipistrelle. An eps license from Natural England will be required prior to the commencement of works on site. Pearce Environment Ltd has recommended bat mitigation in the form of; an ecological clerk of work overseeing bat related work on site, contractors tool box talk, erection of a bat box on the exterior of the building before work commences, the inclusion of a Schwegler 1FR bat box in the proposed extension, retention of a ridge gap, and post development monitoring.

The proposed development will not be detrimental to the maintenance of the populations of bats at a favourable conservation status within their natural range provided that the following conditions detailed in the response from Nicola Stone to Steve Drury 3<sup>rd</sup> September 2014 are on the decision notice and are appropriately enforced:

The following condition should be on the decision notice.

1. No development, demolition or site clearance procedures shall commence until a European Protected Species (EPS) Mitigation Licence with respect to bats has been obtained and submitted to the local planning authority for the proposed work prior to the commencement of works on the site. Work shall be carried out strictly in accordance with the granted EPS Mitigation Licence.

**Reason: To ensure the protection of bats, a European Protected Species**

2. Work shall be carried out strictly in accordance with the Ecological Survey Report

conducted by Pearce Environment Ltd (July 2014) attached as an appendix to this planning permission.

**Reason: To ensure the protection of bats, a European Protected Species**

3. A total of 2 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted as shown on a site plan. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

**Reason: To ensure the provision of roosting opportunities for bats which are European Protected Species.**

4. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet *Bats and Lighting in the UK*

**Reason: To minimise disturbance to bats, a European Protected Species.**

**Informative**

All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

If a live bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.